
Z-2287
CHARLES E. PAYNE
AW TO I2

REVISED STAFF REPORT
May 11, 2006

REQUEST MADE, PROPOSED USE, LOCATION:

Petitioner, who also is the owner, is requesting the rezoning of two properties from AW to I2 to legitimize a countertop and cabinet manufacturing business (SIC 2434). The two tracts (Lot 2, Sam Martin SD, .387 acres and a .46 acre tract, together totaling .847 acres) are located on the south side of CR 300N just east of East Tipp Middle School and Hershey Elementary School and are commonly known as 7707 and 7709 E CR 300N, Perry 9(NE) 23-3.

ZONING HISTORY AND AREA ZONING PATTERNS:

The acreage in question is zoned AW as is land to the east, south and west. Further to the west the schools are zoned R1; north across 300N is A zoning.

AREA LAND USE PATTERNS:

Three structures are located on the property. The original structure on this lot resembles a residence and was built in 1991 solely for the business and has never been lived in. A permit could not be found for this building and based on County records, it has always been considered a garage. Then in 1994, a permit was issued for a 24' x 32' garage addition. Seven years later another permit was issued for a second garage addition measuring 32' x 28'. Finally in 2005, a permit was issued for a 36' x 72' pole barn, which is still under construction. The permit specified the pole barn was for personal use only.

Petitioner's land is surrounded on three sides by large lot single-family homes. Two private drives from 300N serve several of the homes directly east, west and south of the site. The elementary and middle schools are further to the west and land to the north is dominated by farm fields.

TRAFFIC AND TRANSPORTATION:

The site gains access from CR 300N, which is classified as a rural secondary arterial. About 1,125 cars passed this site daily in 2005.

Ordinance required parking for this use is 1 space per 1,000 sq. ft. of gross floor area, plus 1 space per each 200 sq. ft. of office, sales, or similar floor area. Petitioner did not submit a detailed drawing of the site, but it appears from aerial photography and recently issued building permits that at least 7 paved spaces would be required. A visit to the site revealed that the gravel parking area in front has no delineated parking spaces and is not in compliance with the ordinance. Parking in the Industrial zone must be paved. Additionally, there is a required 5' no-parking setback from all lot lines.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:

Well and septic serve the site. According to the Health Department, a septic system was installed in 2005 for the pole barn; the permit specified "private use only", meaning not for a commercial use. The Health Department believes that the flow rates for the existing septic could handle 2 or 3 additional persons.

The Ordinance requires a 20' wide "Type C" bufferyard where I2 zoning abuts AW zoning. These bufferyards are required except where the continued use of existing buildings and/or parking areas would occupy the space otherwise reserved for the bufferyard. Additionally, existing plant material in these areas may be counted by the Administrative Officer as contributing plantings if it meets the requirements of the bufferyard section. This being said, reduced bufferyards may be allowed where evergreen trees exist on edges of the rear lot. Bufferyards for the front lot may be reduced where the structure is closer than 20' from the side and rear lot lines. However, a variance could be necessary in some areas where the bufferyard cannot comply.

STAFF COMMENTS:

Earlier this year in February, an anonymous complaint was received by the County Building Commission about a business operating in the AW zone. The Zoning Enforcement Officer investigated the complaint and found the following:

2/14/2006 [I] Visited the site. I found what appeared to be an older ranch style single-family residence. Upon entering the building, I discovered a fully functioning cabinet factory in operation. There were no interior walls in the structure. The interior was covered with sawdust. There was an area in the east end of the building that was being used for a spray painting area. The interior of this area was covered with residual sprayed paint. The only ventilation noted in the entire building was a window fan situated in the spray painting area.

The window fan has a tube connected to the outside of it that directs the discharge from the fan into what appears to be a medium sized horse trailer. The interior of this trailer contained sawdust and paint. The only paint detected in the structure or in the trailer appears to be a clear lacquer. The situations inside the building and in the trailer constitute a major fire hazard.

The building was constructed without a permit from the Indiana Department of Fire and Building Services and doesn't meet the requirements of the International Building Code.

Conversations with two of the three persons working in the shop reveals that the pole barn was being built so the business could expand including the relocation of the spray painting operation.

The Zoning Enforcement Officer told the owners to cease the operation or file a rezone request to legitimize the business. The next day, petitioner met with staff to discuss the rezoning option.

According to the petitioner, the original garage structure was built in 1991 for the purpose of accommodating the operation and has never been used as a residence. The Zoning Enforcement Officer could not find a permit for this structure. Since then, the business with its 3 employees has grown significantly. In 1994, a 24' x 32' garage addition was built, and then in 2001 a second garage addition measuring 32' x 28' was constructed. Finally, last year a permit was issued for a 36' x 72' pole barn on the rear tract and is not yet occupied. The permit applications for these structures clearly shows them as being for personal storage only (meaning not for manufacturing or business storage), as does the 2005 septic permit for the pole barn. These permits were only issued because the uses of both buildings were represented on the applications as being for personal use. Based on conversations with the Building Commissioner and County Health Department, all of these permits would have been handled differently if petitioner had indicated that the buildings and septic system were to be used for a business. All permits would have required state review. While this business may have existed peacefully with the surrounding homes in the past, albeit without the proper zoning, it has obviously grown enough to become a problem for at least one nearby resident.

In order for this business to become legal, an Improvement Location Permit and Certificate of Occupancy are required for all buildings as well as Industrial zoning. In order to receive a Certificate of Occupancy, all ordinance requirements would have to be met, including setbacks, parking and bufferyards. For Industrially zoned lots abutting residences, the side setback is 30' and the rear setback is 40'. It appears as though none of the structures could meet these setback requirements. Even though there is not enough information available concerning bufferyards and parking, it seems likely that multiple variances would have to be requested before this business could legally operate.

This area of the county is very rural and scattered with home sites and large farms. ***The Comprehensive Plan for Tiptecanoe County*** indicates a residential future for this land adjacent to the middle school and agricultural uses surrounding. Industrial zoning is far too intense for this area. These properties do not have the benefit of sanitary sewer and water; additionally the site has little area to replace the septic system if it fails in the future. Another concern is the impact on adjacent residences, particularly as there is a major fire hazard as documented in the Zoning Enforcement Officer's records. If rezoned, this industrial use could be legitimized and could expand to the detriment of the neighboring houses. Although petitioner stated this business would not grow, it has already expanded three times: 1994, 2001 and 2005. Even with the required 20' wide bufferyard, uses allowed in the I2 zone are highly incompatible with the surrounding single-family homes. This anomalous zoning district is not supported by **The Comprehensive Plan** and is neither appropriate at this location nor compatible with surrounding uses.

STAFF RECOMMENDATION:

Denial

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